



05-09-05

Dale  
B/FW

PTO/SB/64 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
60687(46865)

First named inventor: Philip Kusk

Application No: 09/889,491-Conf. #4096

Art Unit: 1634

Filed: February 5, 2002

Examiner: J. C. Switzer

Title: GENETIC PREDISPOSITION

## MS Petition

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

 Small entity – fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status.  
See 37 CFR 1.27. Other than small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in  
the form of RCE (identify type of reply): has been filed previously on \_\_\_\_\_  
 is enclosed herewith.

B. The issue fee of and publication fee (if required) \$ \_\_\_\_\_

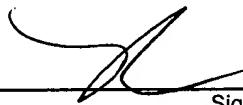
 has been paid previously on \_\_\_\_\_  
 is enclosed herewith.

Page 1 of 2

## 3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].



Signature

May 6, 2005

Date

Robert L. Buchanan

Typed or printed name

40,927

Registration Number, if applicable

EDWARDS &amp; ANGELL, LLP

P.O. Box 55874

Boston, Massachusetts 02205

Address

(617) 439-4444

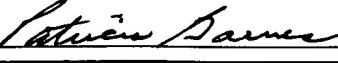
Telephone Number

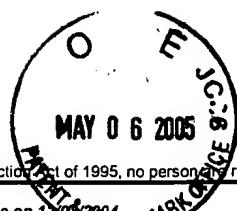
- Enclosures:  Fee Payment  
 Reply RCE  
 Terminal Disclaimer Form  
 Additional sheets containing statements establishing unintentional delay  
 Petition for Extension of Time; Letter in Support; Statement of Sheila Belot;  
 Other: Transmittal Form.

Page 2 of 2

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Dated: May 6, 2005

Signature:  (Patricia Barnes)



PTO/SB/17 (12-04v2)

Approved for use through 7/31/2006. OMB 0651-0032  
GSA FPMR (41 CFR) - 11.C. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
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|  |  |                          |                        |
|--|--|--------------------------|------------------------|
| <br><b>FEE TRANSMITTAL</b><br>For FY 2005 |  | <b>Complete if Known</b> |                        |
|  |  | Application Number       | 09/889,491-Conf. #4096 |
|  |  | Filing Date              | February 5, 2002       |
|  |  | First Named Inventor     | Philip Kusk            |
|  |  |                          | J. C. Switzer          |
|  |  | Examiner Name            |                        |
|  |  | Art Unit                 | 1634                   |
| <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27                                  |  | Attorney Docket No.      | 60687(46865)           |
| <b>TOTAL AMOUNT OF PAYMENT</b>   |  | (\$)<br><b>1655.00</b>   |                        |

**METHOD OF PAYMENT** (check all that apply)

Check     Credit Card     Money Order     None     Other (please identify): \_\_\_\_\_

Deposit Account    Deposit Account Number: 04-1105    Deposit Account Name: \_\_\_\_\_    Edwards & Angell, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

|  |   |
|--|---|
| <input checked="" type="checkbox"/> Charge fee(s) indicated below  | <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee |
| <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of<br>fee(s) under 37 CFR 1.16 and 1.17 | <input checked="" type="checkbox"/> Credit any overpayments                       |

## **FEE CALCULATION**

## **1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| <u>Application Type</u> | FILING FEES     |                                  | SEARCH FEES     |                                  | EXAMINATION FEES |                                  |                       |
|-------------------------|-----------------|----------------------------------|-----------------|----------------------------------|------------------|----------------------------------|-----------------------|
|                         | <u>Fee (\$)</u> | <u>Small Entity<br/>Fee (\$)</u> | <u>Fee (\$)</u> | <u>Small Entity<br/>Fee (\$)</u> | <u>Fee (\$)</u>  | <u>Small Entity<br/>Fee (\$)</u> | <u>Fees Paid (\$)</u> |
| Utility                 | 300             | 150                              | 500             | 250                              | 200              | 100                              |                       |
| Design                  | 200             | 100                              | 100             | 50                               | 130              | 65                               |                       |
| Plant                   | 200             | 100                              | 300             | 150                              | 160              | 80                               |                       |
| Reissue                 | 300             | 150                              | 500             | 250                              | 600              | 300                              |                       |
| Provisional             | 200             | 100                              | 0               | 0                                | 0                | 0                                |                       |

## **2. EXCESS CLAIM FEES**

**Fee Description**

### Each claim over 20 (including Reissues)

Small Entity  
Fee (\$)

Each independent claim over 3 (including Reissues)

200 100

#### **Multiple dependent claims**

360              180

**Total Claims**      **Extra Claims**      **Fee (\$)**      **Fee Paid (\$)**

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**Multiple Dependent Claims**

| <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> |
|-----------------|----------------------|
|-----------------|----------------------|

Indep. Claims      Extra Claims      Fee (\$)      =      Fee Paid (\$)

\_\_\_\_\_

### **3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

**Total Sheets**      **Extra Sheets**      **Number of each additional 50 or fraction thereof**      **Fee (\$)**      **Fee Paid (\$)**  
\_\_\_\_\_ - 100 = \_\_\_\_\_ /50 \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

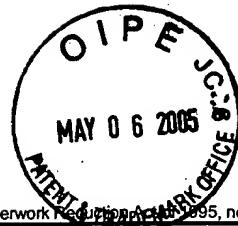
Non-English Specification, \$130 fee (no small entity discount) 2453 Pet. to Revive 750.00  
Other (e.g., late filing surcharge): 2253 Extension for response within third month 510.00  
2801 Request for continued examination (RCE) (see 37 ... 395.00

|                     |   |                                      |        |                               |
|---------------------|---|--------------------------------------|--------|-------------------------------|
| <b>SUBMITTED BY</b> |   |                                      |        |                               |
| Signature           |  | Registration No.<br>(Attorney/Agent) | 40,927 | Telephone      (617) 439-4444 |
| Name (Print/Type)   | Robert L. Buchanan  |                                      | Date   | May 6, 2005                   |

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV654384279US, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 6, 2005

Signature: Patricia Barnes (Patricia Barnes)



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PTO/SB/21 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

|  |  |                        |                        |
|--|--|------------------------|------------------------|
|  |  | Application Number     | 09/889,491-Conf. #4096 |
|  |  | Filing Date            | February 5, 2002       |
|  |  | First Named Inventor   | Philip Kusk            |
|  |  | Art Unit               | 1634                   |
|  |  | Examiner Name          | J. C. Switzer          |
| Total Number of Pages in This Submission |  | Attorney Docket Number | 60687(46865)           |

### ENCLOSURES (Check all that apply)

|   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form                  | <input type="checkbox"/> Drawing(s)                                       | <input type="checkbox"/> After Allowance Communication to TC  |
| <input type="checkbox"/> Fee Attached                                     | <input type="checkbox"/> Licensing-related Papers                         | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences                           |
| <input type="checkbox"/> Amendment/Reply                                  | <input checked="" type="checkbox"/> Petition                              | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)                       |
| <input type="checkbox"/> After Final                                      | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                        | <input type="checkbox"/> Power of Attorney, Revocation                    | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                        | <input type="checkbox"/> Change of Correspondence Address                 | <input type="checkbox"/> Other Enclosure(s) (please identify below):  |
| <input type="checkbox"/> Express Abandonment Request                      | <input type="checkbox"/> Terminal Disclaimer                              |   |
| <input type="checkbox"/> Information Disclosure Statement                 | <input type="checkbox"/> Request for Refund                               |   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)           | <input type="checkbox"/> CD, Number of CD(s) _____                        |   |
| <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application   | <input type="checkbox"/> Landscape Table on CD                            |   |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 |   | Remarks      Please charge the fee of \$750.00 to Deposit Account No. 04-1105. A duplicate sheet is enclosed. |

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |                       |          |        |
|--------------|-----------------------|----------|--------|
| Firm Name    | EDWARDS & ANGELL, LLP |          |        |
| Signature    |                       |          |        |
| Printed name | Robert L. Buchanan    |          |        |
| Date         | May 6, 2005           | Reg. No. | 40,927 |

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV654384279US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 6, 2005

Signature: (Patricia Barnes)



Attorney Docket No. 60687-RCE (46865)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|              |                        |           |                     |
|--------------|------------------------|-----------|---------------------|
| APPLICANT(S) | Kusk, Philip           | EXAMINER: | Switzer, Juliet, C. |
| U.S.S.N.:    | 09/889,491             | GROUP:    | 1634                |
| FILED:       | February 5, 2002       | Conf. No. | 4096                |
| FOR:         | GENETIC PREDISPOSITION |           |                     |

Mail Stop: Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

\*\*\*\*\*  
**CERTIFICATE OF EXPRESS MAIL**

I, Patricia A. Barnes, hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office To Addressee" Label No. EV654384279US in an envelope addressed to Mail Stop: Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on **May 6, 2005**.

By: *Patricia A. Barnes*  
Patricia A. Barnes

\*\*\*\*\*  
**LETTER IN SUPPORT OF APPLICANT'S  
PETITION FOR REVIVAL UNDER 37 CFR 1.137 (b)**

Accompanying this Letter is a Petition under 37 CFR §1.137(b) to revive the above application. The application became abandoned on April 20, 2005 for failure to respond on the record to the Final Office Action mailed October 19, 2004. Enclosed are the following:

- 1) an RCE;
- 2) \$750.00 in payment of the petition fee by a small entity as set forth in 37 CFR §1.17(m) in the form of an authorization to charge our Deposit Account No. 04-1105;
- and 3) this Letter.

The Petition is further supported by the attached Statement of Sheila Belot (Docketing Assistant employed by the undersigned's law firm).

As stated by Sheila Belot, sometime on or about March 2005, she inadvertently removed the April 19, 2005 final due date for filing a Notice of Appeal. As also stated by Ms. Belot, her action was unintentional. The inadvertent omission of the final deadline from the firm's docketing system has been corrected by Ms. Belot's supervisor.

Based on the above, the undersigned submits that the entire period of delay in filing the required reply from the April 19, 2005 due date for the required reply until the filing of a grantable Petition under 37 CFR 1.137(b) was wholly unintentional.

Accordingly, it is respectfully requested that the above-referenced case be revived.

Although it is not believed that any further fee is needed to consider this submission, the Office is hereby authorized to charge our deposit account 04-1105 should such fee be deemed necessary.

Respectfully submitted,

Date: 6 May 2005

  
\_\_\_\_\_  
Robert L. Buchanan  
Reg. No. 40,927  
EDWARDS & ANGELL, LLP  
P.O. Box 55874  
Boston, MA 02205  
Telephone: 617-439-4444  
Fax: (617) 439-4170 / 7748

Customer No. 21874



Attorney Docket No. 60687-RCE (46865) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT(S) Kusk, Philip EXAMINER: Switzer, Juliet, C.  
U.S.S.N.: 09/889,491 GROUP: 1634  
FILED: February 5, 2002 Conf. No. 4096  
FOR: GENETIC PREDISPOSITION

Mail Stop: Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

\*\*\*\*\*

**CERTIFICATE OF EXPRESS MAIL**

I, Patricia A. Barnes, hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office To Addressee" Label No. EV654384279US in an envelope addressed to Mail Stop: Office of Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on **May 6, 2005**.

By: Patricia A. Barnes  
Patricia A. Barnes

\*\*\*\*\*

**STATEMENT OF SHEILA BELOT IN SUPPORT OF APPLICANT'S  
PETITION FOR REVIVAL UNDER 37 CFR 1.137 (b)**

I, SHEILA BELOT, hereby state that sometime on or about March 2005, I inadvertently removed from the patent docket system of Edwards & Angell, LLP the April 19, 2005 due date for filing a response to the Final Office Action dated October 19, 2004 for the above-referenced case.

I, SHEILA BELOT, further state that the entire delay in filing the required reply from the April 19, 2005 due date for the required reply until the filing of a grantable Petition under 37 CFR 1.137(b) was unintentional.

Respectfully submitted,

5/6/05  
Date 9 MAY 2005  
6  
#489928

Sheila Belot  
SHEILA BELOT  
DOCKETING ASSISTANT